



**BACKGROUND PAPER FOR PROPOSED  
ORDINANCE**

**COUNCIL MEETING DATE:** September 12, 2022

**TO:** President Heather Graham and Members of City Council

**CC:** Nicholas A. Gradisar, Mayor

**VIA:** Marisa Stoller, City Clerk

**FROM:** Andrew Hayes, Director of Public Works

**SUBJECT:** AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND CLARITY TELECOM, LLC, DBA BLUEPEAK FIBER, A DELAWARE LIMITED LIABILITY COMPANY

**SUMMARY:**

The Ordinance will approve a license agreement with Clarity Telecom, LLC., (D/B/A Bluepeak Fiber), a Delaware Limited Liability Company, which grants it a nonexclusive license to place telecommunications cable and ancillary facilities within the streets and right of ways of the City of Pueblo in order that the company may operate within the City of Pueblo as a broadband provider. The license agreement preserves, to the extent permitted under existing laws, the City's authority to manage its streets and rights of way for the benefit of the public without discrimination among telecommunications and broadband providers.

**PREVIOUS COUNCIL ACTION:**

The City of Pueblo has previously approved identical or substantially similar license agreements with other qualifying telecommunication and broadband providers in the past.

**BACKGROUND:**

Clarity Telecom, LLC., (D/B/A Bluepeak Fiber)'s website states they strive to create the foundational infrastructure for modern and accessible technology bridging public and private spaces to provide the greatest amount of broadband access to the greatest amount of people. As a qualified broadband service provider, Clarity Telecom, LLC., (D/B/A Bluepeak Fiber) has requested a telecommunications license from the City of Pueblo for installation of a fiber network within the City of Pueblo.

**FINANCIAL IMPLICATIONS:**

Clarity Telecom, LLC., (D/B/A Bluepeak Fiber), and its customers will pay the City of Pueblo applicable sales and use tax fees, E911 fees and occupation taxes.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

Pursuant to federal and state law, the City of Pueblo is prohibited from discriminating among or granting preferences to competing telecommunication providers in the issuance of licenses and from creating or erecting any unreasonable requirements for entry to the City of Pueblo's right of way. As such, the City's alternatives are limited to proposing amendments to the proposed license agreement that are consistent with the foregoing limitations.

**RECOMMENDATION:**

Approval of the Ordinance.

**Attachments:**

Proposed Ordinance  
License Agreement

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND CLARITY TELECOM, LLC, DBA BLUEPEAK FIBER, A DELAWARE LIMITED LIABILITY COMPANY

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

**SECTION 1.**

The License Agreement between the City of Pueblo, a Municipal Corporation and Clarity Telecom, LLC, (D/B/A Bluepeak Fiber), a Delaware Limited Liability Company, a copy of which is attached hereto, having been approved as to form by the City of Pueblo Attorney, is hereby approved.

**SECTION 2.**

The Mayor is authorized to execute and deliver the License Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

**SECTION 3.**

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the policies and procedures described therein.

**SECTION 4.**

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_ based on the following objections:

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\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_  
City Clerk